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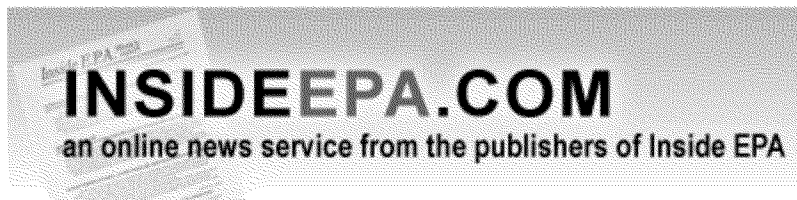
<http://theorganicsinstitute.com/wp-content/uploads/2012/04/Tractor-spraying-pesticide-128Kb.jpg>**Pesticides & Toxic Substances Law News**

for January 14, 2014

Biotechnology

**Supreme Court Denies Organic Farmers' Case
Against Monsanto Patents on Biotech Seeds**

The U.S. Supreme Court Jan. 13 refused to let organic farmers and seed sellers challenge Monsanto Co.'s patents on genetically modified seeds (Organic Seed Growers and Trade Association v. Monsanto, U.S., No. 13-303, 1/13/14)....



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Inside EPA's **Risk Policy Report**, 01/14/14

<http://insideepa.com/Risk-Policy-Report/Risk-Policy-Report-01/14/2014/menu-id-130.html>

Latest Blogs

Spill Prompts Calls For Stricter Chemical Laws

Democratic lawmakers, environmentalists and labor officials are calling for policymakers to strengthen the Toxic Substances Control Act (TSCA) and other chemical regimes in the wake . . .



CHEMICALS:

W.Va. spill restarts debate over federal oversight

Jason Plautz, E&E reporter

Published: Monday, January 13, 2014

A chemical plant leak that has left 300,000 West Virginia residents unable to drink tap water for four days has reignited the debate over government regulation of chemical facilities.

The U.S. Chemical Safety Board has dispatched a team to Charleston to investigate the leak from a Freedom Industries chemical plant that has polluted the Elk River. The Occupational Safety and Health Administration and U.S. Attorney's Office in Charleston

have also opened investigations.

But advocates say the spill -- and the fact that emergency responders seem to lack a thorough understanding of either the plant or the spilled chemical -- highlights the inadequate supervision of the nation's chemical plants.

A leak was discovered Thursday at a Freedom Industries tank storing 4-methylcyclohexane methanol (MCHM), a chemical used to scrub coal of impurities, just a mile north of the intake for a water treatment plant. The estimated 7,500-gallon leak left nine counties without water for drinking or bathing ([*see related story*](#)).

The Charleston Gazette reported that even though the state was aware that the Freedom Industries plant was storing high levels of MCHM and other chemicals, the plant had not been inspected since 1991. Federal inspectors from OSHA had never been to the plant, according to federal records.

The Chemical Safety Board had also recommended to West Virginia in 2011 that it create a program to prevent releases and chemical accidents in the Kanawha Valley, which hosts several chemical plants. The recommendation was the result of a CSB investigation into a 2008 explosion that killed two at a Bayer CropScience plant.

But the state didn't start the program, saying it lacked the expertise and with supporting groups saying the state was best served with its own existing regulations.

West Virginia Gov. Earl Ray Tomblin (D) said over the weekend that he will work with state regulators and legislators to develop a plan that would tighten regulation of chemical storage in the state, saying "we have to look at them to make sure this kind of incident does not happen again."

An explosion at a fertilizer plant in West, Texas, last April that killed 14 people and wounded 150 others shone a spotlight on chemical security issues after it was revealed that federal regulators had not visited the West Fertilizer Co. and the company hadn't reported storing high levels of the explosive ammonium nitrate. The aftermath brought new legislation aimed at forcing chemical plants to develop safety plans and report hazardous substances, as well as a White House executive order mandating that U.S. EPA, the Department of Homeland Security, OSHA and others find ways to improve site security.

But there's been little action taken to shore up what even CSB Chairman Rafael Moure-Eraso deemed a "patchwork" of regulations.

An aide for the Senate Environment and Public Works Committee said today the panel was investigating the spill and is "planning further oversight of the issues."

Further confounding the response is the lack of knowledge about MCHM. A Material Safety Data Sheet says that the substance can result in skin or eye irritation and that it could be harmful if inhaled or ingested but does not have any available information on

chronic hazardous effects. Other information from EPA or other federal bodies is unavailable.

"What is particularly maddening and outrageous is that no one -- not local or state officials, not the company that owns the storage tank, not the federal government -- can say anything even close to definitive about what risk the chemical poses to people, even in the short-term, let alone over time," said Environmental Defense Fund senior scientist Richard Denison in a post on his blog.

At issue, he said, were the failures of the 1976 Toxic Substances Control Act that have left EPA without the ability to test and regulate most chemicals in commerce. MCHM was in commerce when TSCA was passed and was thus presumed to be safe and has not been subject to intense scrutiny.

"While accidents happen, of course, the tragedy is compounded by the fact that much of the impact of this spill could have been avoided had basic safety information on this chemical been available," Denison said.

TSCA reform is on the agenda for the EPW Committee this year, but it's unclear whether a bipartisan proposal will move or will garner the support of the environment and public health groups that are pushing for more regulation.

The Sierra Club's Beyond Coal campaign director, Mary Anne Hitt, said the spill "pulls the curtain back on the coal industry's widespread and risky use of dangerous chemicals and is an important reminder that coal-related pollution poses a serious danger to nearby communities."

"Coal mining communities are faced with the dangers of water pollution from coal mining and pollution every day," Hitt said in a statement. "Americans, and the people of West Virginia, deserve greater accountability and transparency about coal industry practices."

AGRICULTURE:

Companies sue to block Hawaii anti-GMO law

Published: Monday, January 13, 2014

Three agrochemical companies Friday challenged the island of Kauai's new law that would put limits on biotech crops and the use of pesticides.

DuPont Syngenta AG and Agrigenetics Inc. -- affiliated with Dow AgroSciences LLC, a unit of Dow Chemical Co. -- argued in the lawsuit filed in the U.S. District Court for the District of Hawaii that local governments in Hawaii have no jurisdiction to regulate their chemicals.

The law, which Kauai's County Council overrode a veto to pass, requires companies to disclose when they use pesticides and plant genetically modified crops, as well as bans them from planting the crops near schools, homes and hospitals ([Greenwire](#), Nov. 18, 2013). It prompted a similar effort in the neighboring island of Hawaii, whose mayor signed a similar law ([Greenwire](#), Dec. 6, 2013).

Paul Minehart, a spokesman for Syngenta, said the ordinance "arbitrarily targets our industry with burdensome and baseless restrictions on farming operations by attempting to regulate activities over which counties in Hawaii have no jurisdiction. These activities are already regulated by governmental agencies under state and federal laws."

Kauai County Councilman Gary Hooser said the lawsuit is an effort to "bully" islanders and prevent the laws from becoming a national model (Christopher D'Angelo, [Reuters](#), Jan. 11). -- **SP**

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